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December 10, 2002

Via Electronic Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Florida and Tennessee, WC Docket No. 02-307*

Dear Ms. Dortch:

AT&T Corp. is attaching hereto BellSouth Telecommunications, Inc.'s Motion for Reconsideration and Clarification in Georgia Docket No. 7892-U, the performance measurements proceeding.[1] Throughout these Section 271 proceedings, BellSouth has consistently touted to this Commission its adoption of the Florida and Georgia PSC change control procedures and data integrity measures on a regionwide basis as evidence of its commitment to and compliance with its market opening obligations under Section 271. Now, however, when it is time to follow through on that commitment by implementing the orders as finally entered by, in this case, the Georgia PSC, BellSouth reverts to its "what commitment?" attitude and seeks changes that would gut several of the regionwide provisions that BellSouth adopted to obtain Section 271 approval in the first place. This Commission cannot allow BellSouth to abandon the commitments that it made and then rely on those commitments in approving BellSouth's final Section 271 application. BellSouth must live up to its commitments -- and demonstrate that it will carry out those commitments --before it can be found to be in compliance with Section 271. BellSouth's Motion is direct evidence that it is not meeting that standard.

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[1] BellSouth Telecommunications, Inc.'s Motion for Reconsideration and Clarification, In re Performance Measurements for Telecommunications Interconnection, Unbundling and Resale, Docket No. 7892-U (Ga. Pub. Serv. Comm.) filed Dec. 5, 2002 ("BellSouth Reconsideration Motion").

The BellSouth Reconsideration Motion seeks to reopen several issues that were discussed and supposedly resolved in the Florida and Georgia change control and data integrity proceedings. For example, BellSouth is seeking to "clarify" CM-11, the percent of change requests implemented within 60 weeks of prioritization, to "restart" the 60-week implementation period whenever the CLECs "reprioritize" their change control requests. BellSouth Reconsideration Motion at 15-17.[2] Such a change would gut CM-11 by allowing BellSouth to extend the time period for implementing change requests that were already prioritized and thus subject to the 60-week limit. Once a change control request is prioritized, it is subject to the 60-week implementation metric. The actual implementation period should relate to the level of prioritization; if a CR has a high priority, it should be implemented well before the end of the 60-week period. The issue with "reprioritization" has arisen only because BellSouth has failed to schedule six CRs that were previously prioritized by CLECs on September 25, 2002. Under the CCP, those six CRs that were prioritized by CLECs in September should have been scheduled for a release within 30 days following the prioritization meeting in September. CCP Document at 42-43. Any changes in the prioritization schedule simply move the timing during the 60-week implementation period when the highest-priority CRs should be implemented. BellSouth should have placed the prioritized CRs on the schedule, and its failure to do so should not give BellSouth the opportunity to delay implementation of already prioritized CRs. Allowing BellSouth to "restart" the clock on any CRs that change in their level of priority simply rewards BellSouth for its failure to comply with its obligations under the change control process.

A second effort to gut the accepted standards relates to CM-6 and the reporting of the percentage of software errors corrected by BellSouth within a specified number of business days. AT&T and the DOJ have commented frequently on BellSouth's software errors, and the length of time it takes for BellSouth to correct the errors. AT&T at 12-14; AT&T Rep. at 14-15; DOJ Eval. at 8. BellSouth is now seeking to hide the extent of the problem with another request for "clarification" that any failure to meet the standard for correcting a reported software error should not be reported until the month that the software error is finally corrected – and only in that month. BellSouth Reconsideration Motion at 13-15. Thus, BellSouth suggests that a software error identified in August and scheduled to be corrected by October but then not finally

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[2] After voluntarily adopting CM-11 in the Florida proceeding on a regionwide basis, and then widely publicizing this action, BellSouth is now pleading with the Georgia PSC not to have existing prioritized requests included in the CM-11 measure. BellSouth Reconsideration Motion at 15. Yet BellSouth previously advised *this* Commission that, because CM-11 (as promulgated by the Florida PSC and interpreted by BellSouth) had placed BellSouth in a "dilemma" by requiring BellSouth to implement within 60 weeks all change requests that already have been prioritized, BellSouth had responded to its "dilemma" by "reevaluating" and (ostensibly with the CLECs' consent) modifying its preexisting 2003 release schedule. Stacy Aff., ¶¶ 224-243. Will BellSouth now also "reevaluate" and withdraw its letters and statements announcing its regionwide adoption of CM-11? This is nothing more than an effort by BellSouth to delay any consequences associated with its poor performance under the change control process.

resolved until December should first be included in the December data. The result is that BellSouth's failure to meet the standard for the months of October and November (when the software error is outstanding and not corrected) would not be reflected in any data, even though a software error had not been corrected in a timely manner for each of those months and properly should be reported. This is certainly one way to improve BellSouth's performance in correcting software errors -- simply not report when BellSouth fails to correct a software error in a timely fashion. Clearly, however, BellSouth should be required to devote the resources so that its software releases do not have so many errors. So long as the software errors remain, however, there should be "truth in reporting" so that BellSouth is not able to sweep under the rug its failure to correct software errors in a timely fashion. And BellSouth should be required to pay penalties under the SEEM for each month in which it has failed to meet the applicable deadlines for correcting defect change requests, for only this approach will give BellSouth sufficient incentive to meet the applicable time deadlines.

As further evidence of BellSouth's continuing effort to back away from its commitment to the CCP, BellSouth seeks clarification that it is required to provide release capacity information for future releases only for the upcoming twelve months. BellSouth Reconsideration Motion at 21-22. This is clearly inadequate, as can be seen today (in December 2002) by the lack of any BellSouth planning estimate for 2004 and the 15 CRs that cannot be implemented until that time. The 60-week implementation period for prioritized CRs is itself 14 months, and BellSouth should be required, as the Georgia Order provided (at 14, Item 43), to provide a forecast for the upcoming two years.

Finally, BellSouth's true colors are revealed by its plea for relief from the 95% flow-through benchmark established for UNE-P orders. BellSouth Reconsideration Motion at 1-6. BellSouth has failed to implement a variety of change control requests relating specifically to flow-through (there are ten flow-through change requests outstanding), and as a result, some of these flow-through change control requests may not be implemented until 2004. But instead of determining whether some of these flow-through change control efforts may help increase the flow-through rate, BellSouth instead whines that it will never reach the 95% flow-through level for UNE-P orders and complains about having to pay penalties for not reaching the 95% UNE-P flow-through level. This flow-through percentage represents orders that should flow through the system, and therefore the truly appropriate benchmark should be 100%. The 95% benchmark for UNE-P flow-through has been adopted in New York, and there is no reason the same benchmark should not exist for BellSouth. As the Georgia PSC determined in its order, BellSouth should devote the resources to increase the UNE-P flow-through to 95% and the UNE-Other to 85%. Moreover, BellSouth should pay penalties to the CLECs for failure to meet these benchmarks. Such penalties can help reimburse CLECs for the time and expense incurred in dealing with the large numbers of UNE-P orders that continue to require CLEC time, effort, and expense due to problems associated with BellSouth's manual processing of UNE orders.

These points demonstrate that BellSouth is willing to take the publicity credit for adopting the Florida and Georgia change control and performance measures provisions but not

willing to take on the more substantive task of complying with those rules. BellSouth must be required to "recommit" to the change control and performance measures it previously accepted -- and publicly touted -- prior to any Section 271 authorization by this Commission.

In accordance with Commission Rule 1.1206, I am filing this document electronically and ask that you place it in the record of the proceeding listed above. Thank you for your consideration in this matter.

Yours sincerely,

/s/ Alan C. Geolot

Alan C. Geolot

cc: S. Bergmann
G. Cooke
J. Dygert
R. Lerner
W. Maher
J. Myles
C. Newcomb
T. Preiss
J. Swift

Attachment

BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

In Re:	)	
	)	
Performance Measurements for	)	Docket No. 7892-U
Telecommunications Interconnection,	)	
Unbundling and Resale	)	
	)	

BELLSOUTH TELECOMMUNICATIONS, INC.'S
MOTION FOR RECONSIDERATION AND CLARIFICATION

I. INTRODUCTION

Pursuant to GPSC Rule 515-2-1-.08, BellSouth Telecommunications, Inc. ("BellSouth") respectfully moves the Georgia Public Service Commission ("Commission") to reconsider and clarify portions of its Order Adopting Changes to Performance Measures signed on November 14, 2001 (the "November 14 Order"). BellSouth recognizes that the Commission's review of BellSouth's Service Quality Measurement ("SQM") and Self-Effectuating Enforcement Mechanism ("SEEM") plans has involved a lengthy process during which the Commission staff has worked diligently to resolve numerous issues. However, in BellSouth's view there are several issues in the Commission's November 14 Order for which reconsideration or clarification is appropriate.

II. DISCUSSION

A. The Commission Should Reconsider Its Decision Establishing A 95% Benchmark For UNE-P Flow Through For Measures O-3 (Percent Flow-Through Service Requests (Summary)) & O-4 (Percent Flow-Through Service Requests (Detail))

The Commission's November 14 Order affects flow through in three different respects. First, it creates two levels of disaggregation to capture flow through associated with UNE-P and

other UNEs. Second, it increases the remedy amounts applicable to the flow through metrics under the Commission's SEEM Plan. Third, it establishes a 95% benchmark for UNE-P flow through and an 85% benchmark for other UNEs. BellSouth respectfully seeks reconsideration of the establishment of a 95% benchmark for UNE-P flow through.

Although the Commission apparently believed that a 95% benchmark would provide incentive for UNE flow through to improve, BellSouth's UNE flow-through performance has shown steady improvement in relation to the current 85% benchmark. BellSouth's UNE flow-through results for the six-month period from April to September 2002 are as follows:

Month	UNE Flow Through
April	84.8%
May	82.6%
June	83.8%
July	89.1%
August	87.9%
September	89.8%

Pate Affidavit ¶ 5. A graph depicting BellSouth's UNE flow-through performance in relation to the Commission's 85% benchmark is attached to the Affidavit of Ronald M. Pate as Exhibit 1.

BellSouth is committed to improving flow through results, without any change in the UNE flow-through benchmark. Through Release 10.6, which was implemented on August 25, 2002, BellSouth has implemented thirty-five features or error and defect corrections to improve flow through. BellSouth also has undertaken an additional project to further improve flow-through rates, which is focused solely on reducing or eliminating items classified as "BST errors" in the current flow-through reporting process. "BST errors" are errors that require manual review by the Local Carrier Service Center ("LCSC") due to BellSouth system functionality. In other words, the CLEC orders are accepted by the BellSouth OSS and then the orders fall out for manual intervention by BellSouth. As part of this project to address "BST

errors," BellSouth has added information technology resources, over and above those currently designated for the CLEC OSS projects. This project also is focusing on the Local Exchange Service Order Generator ("LESOG") application, and BellSouth has performed an analysis of the top error codes impacting flow-through and identified flow-through errors that are isolated to the LESOG application which BellSouth is taking steps to correct. Pate Affidavit ¶ 9.

As part of this flow-through improvement project plan, in October 2002 BellSouth developed an estimated time-line for each of the flow-through segments, showing current performance, and expected improvements. This time-line for UNE flow through (all UNEs together) projected consistent UNE flow through in the 91 to 92 percent range by the first quarter of 2003. Pate Affidavit ¶ 10. These projections demonstrate BellSouth's commitment to improving flow-through beyond the Commission's existing 85% benchmark. In other words, the current UNE flow-through benchmark does not represent a standard that BellSouth only seeks to meet but never exceed. Up to a point, increasing flow through benefits both BellSouth and the CLECs, and BellSouth has ample incentive to continue to improve flow-through results. This is particularly true with the increased remedy amounts associated with flow through that the Commission has established.

However, it is unrealistic to expect that flow-through performance will continue to improve dramatically each month. In fact, it is likely that BellSouth's flow-through results will level off. This leveling-off in no way indicates a lack of focus on flow-through performance by BellSouth; rather, it is due to the fact that further improvements in flow-through results become increasingly difficult to produce. Most of the large-impact items will have been implemented by first quarter 2003, leaving only low-volume errors that, when corrected, yield only tenths-of-percentage points improvement in flow through. Pate Affidavit ¶ 12.

Given BellSouth's inability to continue to achieve dramatic improvements in flow through, a 95% benchmark for UNE-P flow-through does not serve as an incentive but rather represents a hammer to punish BellSouth. BellSouth has analyzed its UNE flow-through results for the six-month period from April to September 2002 in an attempt to determine the impact of having to meet a 95% benchmark for UNE-P flow through and an 85% benchmark for all other UNE flow through. The results of this analysis reveal that BellSouth would not consistently meet either of these Commission benchmarks. With the increased penalty amounts associated with flow through ordered by the Commission, BellSouth would be required to pay more penalties and to do so based on two categories of UNE flow through, rather than one.

If UNE-P were placed into a separate category for flow through for the period from April through September 2002, BellSouth's UNE-P flow through results would be as follows:

Month	UNE-P Flow Through
April	85.6%
May	83.2%
June	84.5%
July	89.9%
August	88.6%
September	90.7%

Pate Affidavit ¶ 7. Although BellSouth's UNE-P flow through has been good and continues to improve, BellSouth's UNE-P flow through results consistently have been below the Commission's 95% benchmark, as reflected on the graph attached as Exhibit 2 to the Affidavit of Ronald M. Pate. Although BellSouth has not made any specific projections concerning UNE-P flow through, UNE-P flow-through historically has been approximately one percentage point higher than overall UNE flow through. If this trend continues, BellSouth is unlikely to achieve consistently UNE-P flow through rates of 95% in the foreseeable future. Pate Affidavit ¶ 11.

Currently, UNE-P orders represent in excess of 90% of the UNE Local Service Requests ("LSRs") that BellSouth receives each month. As a result, removing these LSRs from the UNE category would cause a significant decrease in the flow through results for all other UNEs, as the following results reflect:

Month	Other UNE Flow Through
April	72.8%
May	71.3%
June	72.6%
July	74.0%
August	71.6%
September	74.6%

Pate Affidavit ¶ 8. Removing UNE-P from the UNE category causes BellSouth's flow through results for all other UNEs to fall significantly below the Commission's 85% benchmark, as reflected on the graph attached as Exhibit 3. Because the volume of UNE LSRs other than UNE-P is relatively small (less than 16,000 LSRs in September 2002) and for the reasons previously explained, it is unlikely that BellSouth would ever be able to meet an 85% flow through benchmark for UNEs that do not include UNE-P. For the past six months, flow through for UNEs not including UNE-P has been 11 to 16 percentage points below overall UNE flow through. If this trend continues, BellSouth would consistently miss the Commission's 85% benchmark for other UNEs. Pate Affidavit ¶ 11.

While BellSouth agrees that the Commission should establish adequate incentives for BellSouth to continue to improve its performance, those incentives should be reasonably achievable. BellSouth only recently has been able to meet the Commission's existing 85% benchmark with consistency, and no constructive purpose would be served by increasing that benchmark at this time. Accordingly, BellSouth respectfully requests that the Commission

reconsider its decision to establish a 95% benchmark for UNE-P flow through and instead apply the current UNE flow-through benchmark of 85% to both disaggregated levels of UNE flow-through.

Reconsideration of this issue also is warranted because the Commission's decision to establish a 95% benchmark for UNE-P flow through fails to comply with the Administrative Procedure Act ("APA"). The APA has been applicable to Commission proceedings since January 1, 1976. *See Georgia Power Co. v. Public Service Comm'n,* 196 Ga. App. 572, 396 S.E.2d 562, 567 (1990); *see also* O.C.G.A. § 50-13-2(1). Under the APA, an order of the Commission can be reversed or modified if the Commission's "findings, inferences, conclusions, or decisions" are not "supported by any evidence." O.C.G.A. § 50-13-19(h); *Municipal Electric Authority v. Georgia Public Service Comm'n,* 241 Ga. App. 237, 525 S.E.2d 399 (1999); *see also Georgia Public Service Comm'n v. Alltel Communications,* 244 Ga. App. 645, 536 S.E.2d 542, 545 (2000).

In this case, the Commission's decision to establish a 95% benchmark for UNE-P flow through is not "supported by any evidence," if for no other reason than the Commission did not conduct hearings during which evidence was presented. Because there is no evidentiary record, the Commission's November 14 Order lacks the "concise and explicit statement of the underlying facts" necessary to support the Commission's decision. *See* O.C.G.A. § 50-13-17(b). Without such supporting facts, the Commission's decision to change the benchmark for UNE-P from 85% to 95% is legally unsustainable, and thus reconsideration is appropriate.

B. The Commission Should Reconsider Its Decision Adopting The Special Access Measures Proposed By The Joint Competitive Industry Group

In its November 14 Order, the Commission adopted special access measures filed with the FCC by the Joint Competitive Industry Group ("JCIG") in January 2002. This decision represented a change from the Staff's original recommendation that the Commission adopt special access measures that BellSouth and the CLECs had agreed to implement in Tennessee (hereinafter referred to as the "Tennessee measures"). Although the November 14 Order does not explain the reasons for this change, the Commission should reconsider its decision.

First, reconsideration is warranted because the parties in this proceeding appear to agree that, if the Commission is intent on adopting special access measures, the Commission should adopt the Tennessee measures. Those measures were agreed to by the industry in Tennessee, and in comments filed in this docket, the CLEC Coalition opposed adopting different special access measures in Georgia:

> The Tennessee Regulatory Authority has recently adopted similar metrics. It makes far more sense for the Commission to adopt special access metrics similar to those in force in Tennessee and that are supported by the industry and business end-users rather than have BellSouth report on special access performance under two different sets of metrics.

CLEC Coalition Comments, at 7 (citation omitted). Although BellSouth does not believe the Commission can or should adopt performance measures for interstate special access services, BellSouth agreed with the CLEC Coalition that, "if any interstate special access service performance measures are to be adopted, they should be the ones to which the industry recently agreed in Tennessee." As BellSouth explained, "The adoption of a uniform set of performance measures for interstate special access services would allow regulators and carriers to more readily monitor BellSouth's performance and would avoid the unnecessary duplication of time

and resources in implementing different measures designed to monitor the same thing." BellSouth Comments at 32-33.

The Commission encourages the industry to reach consensus on various issues, and the Commission Staff conducted weeks of workshops as a mechanism by which agreement could be reached. Here, the industry agreed to special access measures in Tennessee and agreed that creating a different set of measures in Georgia would make no sense. The Commission should not reject industry consensus or else the industry will have little incentive to reach agreement on other issues in the future.

Second, the Commission should reconsider its decision to adopt the JCIG measures because there is no factual basis to support this decision. As explained above, the APA requires that the Commission's "findings, inferences, conclusions, or decisions" be "supported by any evidence." O.C.G.A. § 50-13-19(h); *see Municipal Electric Authority,* 525 S.E.2d at 401; *Alltel Communications,* 536 S.E.2d at 545. Here, the Commission's decision to adopt the JGIC measures is not "supported by any evidence." Because the Commission did not conduct a hearing, there was no evidence presented on special access measures, and thus the Commission's November 14 Order lacks the "concise and explicit statement of the underlying facts" necessary to support adoption of the JCIG measures. *See* O.C.G.A. § 50-13-17(b). Without such supporting facts, the Commission's decision to require that BellSouth implement eleven new special access metrics is legally flawed, and, accordingly, the Commission should grant reconsideration on this issue.[1]

[1] Reconsideration is particularly appropriate because the JCIG measures contain numerous performance standards to which BellSouth would be expected to comply. For example, Measure SA-7 (Trouble Report Rate) contains a benchmark for special access trouble reports of 1%. However, there is no evidence which even remotely suggests that this benchmark or any of the other JCIG standards are appropriate or even reasonable.

Third, reconsideration is appropriate because the Commission lacks the statutory authority to regulate *federally tariffed* services, in other words, interstate services. As the Commission is aware, one party to this proceeding -- Time Warner -- has requested the FCC to order performance measurements that would apply to interstate access services. Moreover, another party to this proceeding -- AT&T -- petitioned the FCC on October 30, 2001, for a rulemaking proceeding to establish performance standards, reporting requirements, and remedies related to the provision of interstate special access services. The FCC responded to these and other CLEC requests by releasing on November 19, 2001 a notice of proposed rulemaking to address performance measurements and standards for interstate special access services. Notice of Proposed Rulemaking, *In re: Performance Measurements and Standards for Interstate Special Access Service*, CC Docket No. 01-321, FCC 01-339 (Nov. 19, 2001) ("NPRM"). In the NPRM, the FCC made clear that its jurisdiction to adopt performance measures for special access services is tied specifically to the fact that special access services are interstate in nature. In the NPRM, the FCC expressly states the following:

> The Commission has broad authority to establish national performance measurements and standards for special access services pursuant to sections 201 and 202 of the Act. Section 201(b) of the Act requires, among other things, that the practices of all common carriers providing *interstate* services be just and reasonable, and the Commission previously has applied the requirements of Section 201 to special access services.

NPRM, ¶ 8 (emphasis added).[2]

Furthermore, the FCC's jurisdiction also is premised on the fact that "Section 272(e)(1) provides additional authority for the Commission to apply measures, standards, and reporting

[2] The FCC did seek comment (Par. 9) on the difference between the nondiscrimination requirements of Section 251 and Section 202, which suggests that the nondiscrimination requirements of Section 251 may apply to special access services, although the FCC has not held that this is the case. In any event, the FCC's exercise of jurisdiction is expressly tied to the fact that access services are interstate in nature.

requirements to the provisioning of the *interstate* special access services by BOCs." (Par. 10) (emphasis added) Thus, jurisdiction is premised on Sections of the Act other than 251 and relates specifically to the interstate nature of these services. The obverse proposition must follow: *this* Commission cannot attempt to assert jurisdiction over interstate services pursuant to Sections of the Act that it has not been charged to apply or enforce.

The FCC expressly sought comment on the question of whether state commissions "could play a role regarding interstate special access services." NPRM, ¶ 11. The FCC specifically requested comments on "how, if the Commission were to adopt special access measures and standards, the state commissions might participate in enforcing these requirements". ¶11. Furthermore, the FCC requested parties to "comment on what they consider an appropriate role for the states, taking into account both policy considerations and legal constraints, and including applicable limitations on delegations of authority to the state." *Id.* Thus, the FCC clearly intends that State Commissions will have a limited role, which will be determined later, and which will not rest upon independent jurisdiction, but rather upon an explicit, future delegation of authority, which has yet to be made.

It is noteworthy that the FCC's approach to performance measures for special access stands in marked contrast to its approach to performance measurements for unbundled network elements and interconnection. In the NPRM that addressed the latter, the FCC acknowledged the extensive efforts that have been made in a number of states regarding performance measurements for UNEs and interconnection, and the FCC also expressed an intention to work cooperatively with the states on this issue (NPRM, FCC 01-331, Par. 15-20). The NPRM regarding special access is quite different. As noted above, there is the possibility that the FCC will adopt national performance measurements and standards for special access and that state

commissions *might* participate to the limited extent of assisting in the enforcement of these requirements, after the necessary delegation of authority. The difference in the two Notices makes clear that the FCC contemplates that the states will have a much more limited role (if any) in defining performance measures for special access services. The Commission's decision to adopt the JCIG measures disregards its limited role in this area, which is an additional ground for granting reconsideration.

In the alternative, the Commission should stay the implementation of any special access measures until after the FCC completes its rulemaking. Until the FCC resolves issues surrounding performance measurements for federal interstate services, there is no reason for this Commission to do so.

C. The Commission Should Clarify Certain Aspects Of The Change Management Measures That Have Been Adopted.

1. CM – 1 (Timeliness of Change Management Notices); CM – 2 (Change Management Notice Average Delay Days); CM – 3 (Timeliness of Documents Associated With Change); CM – 4 (Change Management Documentation Average Delay Days)

The Commission should clarify its November 14 Order to ensure that Measures CM-1, CM-2, CM-3, and CM-4 are consistent with the Change Control Process ("CCP") under which BellSouth and the CLECs are required to operate. The industry is in agreement that the Commission's change management performance measures should be consistent with the CCP, and during the Commission's workshops BellSouth and the CLECs recognized that those measures would need to be conformed to whatever change management process the Commission established. In order to ensure such consistency, BellSouth respectfully requests that the Commission clarify Measures CM-1, CM-2, CM-3, and CM-4 in two respects.

First, the Commission should order that these change management measures be modified to eliminate references to time intervals that no longer apply under the CCP. For example, CM-3 and CM-4 contain an exclusion for "documentation for release dates that slip less than 30 days for reasons outside BellSouth control." While at one time the CCP contained a requirement to deliver documents within 30 days, that requirement has since been removed. Accordingly, consistent with the exclusion currently set forth in Measure CM-1, BellSouth suggests that the reference to 30 days be eliminated and that the language be clarified to exclude "documentation for release dates that is not provided on time for reasons beyond BellSouth's control." Likewise, the reference to the 30-day interval in the exclusion under CM-1 and in the SEEM analog/benchmark under CM-3 should be eliminated and replaced with the words "on time," consistent with other change management measures.

Second, the Commission should order that the change management measures be modified to recognize the manner in which expedites are currently handled under the CCP. Measures CM-1, CM-2, CM-3, and CM-4 currently contain an exclusion for "Type 6 Change Requests (Defects/Expedites) as defined by the Change Control Process." Such an exclusion is appropriate because defects and expedites are handled on an accelerated basis, and thus the standard notice and documentation intervals under the CCP do not apply. However, under the current CCP, change requests such as Type 4s and Type 5s can be expedited, and these expedited items are not treated as Type 6 Change Requests. To recognize this change in process, BellSouth respectfully requests that the language in these four measures be clarified to exclude "Type 6 Change Requests and all Expedites as defined by the Change Control Process."

2. CM – 6 (Percent of Software Errors Corrected in x Business Days)

BellSouth respectfully requests that the Commission clarify the calculation of Measure CM-6, which is "designed to measure BellSouth's performance in correcting identified Software Errors within the specified interval." Specifically, the Commission should clarify that the only software errors included in the calculation of performance under CM-6 are those software errors that have actually been corrected within the reporting period, which is consistent with the intent and plain language of the measure.

To understand this issue more fully, it may be helpful to explain the software error correction process, which begins when the CLEC identifies a potential software error and requests that the error be fixed. After being entered on the Daily Change Request Report, BellSouth researches the issue and verifies whether a valid error exists, in which case the error is classified and scheduled for correction. When the error is corrected and the software change is implemented, the item will be included in Measure CM-6 in the month in which the error was corrected. For example, a severity 4 defect, issued on August 30, 2002 and verified to be a valid error, would have a scheduled implementation date 45 business days from August 30 or basically late October 2002. If the correction for the defect was implemented in October, it would be included in Measure CM-6 for the October data month. If the correction were delayed until December, it would be included in the December data month.

In addition to being consistent with the language in Measure CM-6, the approach of only including completed items in each month's performance results is consistent with the manner in which other performance measures are calculated. All of the following measures are calculated based on the completion of the event in question: (1) Loop Makeup for Pre-Ordering, (2) Reject Interval and FOC Timeliness for Ordering, (3) Average Order Completion Interval for

Provisioning, (4) Average Completion Notice Interval for Provisioning, (5) Maintenance Average Duration for Maintenance and Repair, (6) Mean Time to Deliver Invoices, (7) Mean Time to Deliver Usage for Billing and Average Response Time, and (8) Average Response Arrangement Time for Collocation.

Clarification of Measure CM-6 is necessary to avoid any suggestion that every software defect should be included in Measure CM-6, regardless of whether the defect has actually been corrected. Continuing the example above, assume the Severity 4 defect detected in August (and targeted for correction in late October) was not actually corrected until December 2002. AT&T has argued elsewhere that this defect should be reported as late in the reporting months of October and November, even though the defect is not actually corrected until December. This approach is not consistent with the intent of Measure CM-6, which, as clearly stated in its title, is "Percent of Software Errors *Corrected* in X (10,30, 45) Business Days." The operative word here is 'corrected' meaning that the defect *has been corrected.* In the example above, BellSouth believes that the fact that the correction of the defect took longer than 45 days should be reflected only in the December reporting month, when the defect *has been corrected.*

AT&T's approach would result in reporting a single failure multiple times. In the above example with a defect identified in August and corrected in December, AT&T believes BellSouth should report the defect under Measure CM-6 in October and November. This approach would result in BellSouth paying multiple penalties for the same failure, which is patently unfair. Accordingly, the Commission should clarify its November 14 Order to make clear that only those software errors actually corrected during the reporting period be included in measure CM-6.

3. CM-11 (Percent of Change Requests Implemented Within 60 Weeks of Prioritization).

BellSouth also requests that the Commission clarify Measure CM-11, which captures the percentage of Change Requests implemented within 60 weeks of prioritization. Specifically, the Commission should clarify that the 60-week clock: (1) begins when the CLECs first prioritize change requests after the implementation date of the Commission's November 14 Order; and (2) starts over when change requests that have been prioritized are subsequently reprioritized by the CLECs. Such clarification is necessary to ensure consistency with the plain language of the measure and to comply with the underlying purpose of the CCP.

The Commission's November 14 Order adopts Measure CM-11 as approved by the Florida Public Service Commission. This measure captures whether BellSouth provides CLECs with the timely implementation of prioritized Type 4 and Type 5 Change Requests. The measure states, "[t]he clock starts when a Change Request has been prioritized as described in the Change Control Process. The clock stops when the Change Request has been implemented by BellSouth and made available to the CLECs."

Measure CM-11 clearly provides that the 60-week clock does not start until a change request has been prioritized. However, because under the Commission's November 14 Order, Measure CM-11 will not take effect in Georgia until the first quarter of 2003, the Commission should clarify that change requests prioritized by the CLECs prior to Measure CM-11 taking effect should not be reported under this measure.

Furthermore, the Commission should clarify that the 60-week clock starts over when change requests that have been prioritized are subsequently reprioritized by the CLECs. Under the CCP, before each prioritization meeting, the CLECs and BellSouth will determine the process for prioritizing, including whether to prioritize all Change Requests that are new or not

scheduled, or to only prioritize only the new pending Change Requests. If the participating CLECs decide to prioritize all Change Requests, including those that are not scheduled and have been already prioritized in the past, the 60-week clock should start over.

The following example illustrates the reasonableness of this approach. Assume that in September 2002, the CLECs were to prioritize four change requests as follows

September 2002 Prioritization

Existing Priority	CR	Title	60 week implementation
1	CR0284	LNP Range of Telephone Numbers	Dec-03
2	CR0135	Merging of Accounts	Dec-03
3	CR0104	LENS Large Account Inquiry - Ability to Access numbers behind SLAs	Dec-03
4	CR0676	Electronic ordering of Line Sharing w/DLEC Splitter	Dec-03

However, assume that in December 2002, the CLECs decided to prioritize all Change Requests, including those that are not scheduled and have been already prioritized, resulting in a new prioritization of Change Requests as follows:

December 2002 Prioritization			
New Priority	**CR**	**Title**	**60 week implementation**
1	CR0135	Merging of Accounts	Feb-2004
2	CR0877	Mech of DS1 Interoffice UNE Transport	Feb-2004
3	CR0952	Add USOC ESWCT to LESOG Table/G8170 Invalid Auto Clarification-ESCWT/3 Way call	Feb-2004

4	CR0963	Class of Service - Mechanized Provisioning & Flow Through. Electronically order UNE-P Class of Service (I.e., res to bus). This change applies to REQTYPs E, M & J.	Feb-2004
5	CR0284	LNP Range of Telephone Numbers	Feb-2004
6	CR0925	Change Missed Appointment Code Message	Feb-2004
7	CR0926	Supplementing orders in LENS	Feb-2004
8	CR0104	LENS Large Account Inquiry - Ability to Access numbers behind SLAs	Feb-2004
9	CR0676	Electronic ordering of Line Sharing w/DLEC Splitter	Feb-2004

As a result of the CLECs' decision to reprioritize, the 60-week clock should start over. Otherwise, implementation of change requests would be driven by the 60-week requirement, and not the CLECs' prioritization. In the above example, the CLECs prioritized the electronic ordering of line sharing with a DLEC splitter (CR0676) as their fourth priority in September 2002, but then reprioritized this item as their ninth priority in December 2002. At the same time, the CLECs prioritized a new change request to mechanize DS1 interoffice transport (CR0877) as their second priority. However, if the 60-week clock did not restart with the reprioritization of the change requests, BellSouth would have to implement the CLECs' ninth priority change request before the change request the CLECs identified as their second highest priority. For the CLEC prioritization process to have any meaning, the Commission should clarify Measure CM-11 to make clear that the 60-week clock starts over when change requests that have been prioritized are subsequently reprioritized by the CLECs.

D. The Commission Should Clarify Its November 14 Order As It Relates To Certain Issues Raised by BearingPoint As Part Of The Georgia Third-Party Test.

The Commission should clarify its November 14 Order to address two issues raised by BearingPoint as part of its third-party test. First, in Draft Exception 209, BearingPoint identified a discrepancy in Measure OSS-1 in the SQM as it relates to disaggregation levels for SEEM purposes. Specifically, the SQM reflects that SEEM payments under OSS-1 would be disaggregated based on various BellSouth legacy systems, which is inconsistent with the Commission's prior orders in this docket, which established SEEM disaggregation for Measure OSS-1 based on BellSouth's electronic interfaces – LENS and TAG. BellSouth requests that the Commission clarify its November 14 Order to require that BellSouth modify the SEEM disaggregation levels under Measure OSS-1 consistent with the Commission's prior orders.

Second, in Florida Observation 176, BearingPoint identified a replication issue associated with Measure P-4, Average Completion Interval. BearingPoint found one record that it believed should be categorized as a CLEC record based on instructions in the Raw Data Users Manual ("RDUM"), while BellSouth had categorized the record as a BellSouth retail record. After investigating the issue, BellSouth determined that the record – a "C" order -- should actually have been excluded. This "C" order was initiated to complete a partial disconnect of an account; had the CLEC issued a "D" order, the complete account would have been disconnected. Since the only purpose of the "C" order was to disconnect lines from an account, this order was a disconnect order that should have been excluded from the calculation of the measure consistent with the SQM. BellSouth has since provided notice of its intention to make the coding changes to address this issue for Measure P-4 as well as for other affected provisioning measures.

However, the Commission should clarify its November 14 Order to make clear that disconnect orders should be excluded from the affected provisioning measures, regardless of the type of order used to effectuate the disconnection. In addition, the same language should be used for the disconnect exclusion across all of the affected provisioning measures, rather than using different language in each measure, as is currently the case. Accordingly, the Commission should require BellSouth to substitute "Disconnect Orders" in place of the current disconnect exclusion language for the following provisioning measures: Measures P-1 (Mean Held Order Interval); P-2A (Jeopardy Notice Interval); P-2B (Percentage of Orders Given Jeopardy Notices); P-3 (Percent Missed Installation Appointments); P-4 (Average Completion Interval); P-5 (Average Completion Notice Interval); P-6 (% Completions/Attempts Without Notice or < 24 Hours Notice); P-9 (% Provisioning Troubles Within 30 Days); and P-11 (Service Order Accuracy).[3]

E. The Commission Should Clarify That The SQM Document Attached To The November 14 Order Does Not Reflect All Of The Changes Ordered By The Commission

Attached to the Commission's November 14 Order is an earlier version of the SQM that reflects some, but not all of the changes ordered by the Commission. To avoid any confusion, BellSouth suggests that the Commission direct BellSouth to file an updated SQM plan that incorporates all of the Commission's decisions, including any issues upon which reconsideration or clarification is granted.

[3] Although Measure P-6 does not currently contain an express exclusion for disconnect orders, the purpose of the measure -- % Completions/Attempts Without Notice or <24 Hours Notice -- is to capture how effectively BellSouth provides adequate notice of advance order completion activity, which enables CLECs providing service to schedule necessary vendors to be on site to complete the installation of service. This measure was proposed by the CLECs, which argued in prior proceedings that missed or late confirmations make CLECs look disorganized and ill-equipped to meet due dates for service delivery to their customer. As a result, Measure P-6 was designed to apply only to the provisioning of service and, as currently defined, would not include any type of disconnect activity.

F. The Commission Should Clarify Its November 14 Order As It Relates To Any Fine Associated With Changes To Measure P-11 (Service Order Accuracy).

The Commission should clarify its November 14 Order as it relates to the Staff's original recommendation that BellSouth be fined $100,000 for "changing" Measure P-11 "without prior Commission approval." The Staff subsequently required BellSouth to file a report, which included this proposed fine. The Commission's November 14 Order indicates that the Staff "will review this report and recommend to BellSouth on how to proceed." The Commission did not direct BellSouth to pay any fines associated with changes to Measure P-11, and there is no factual or legal basis for requiring that BellSouth do so. *See* O.C.G.A. § 46-2-91(a) (empowering the Commission, after notice and a hearing, to impose a penalty upon a utility that "willfully violates any law administered by the commission or any duly promulgated regulation issued thereunder or which fails, neglects, or refuses to comply with any order after notice thereof"). The Commission should clarify its November 14 Order accordingly.

G. The Commission Should Clarify The Effective Date Of Its November 14 Order.

The November 14 Order provides that the changes ordered by the Commission will be effective "90 days from the date of a Commission Order approving the revised SQM." November 14 Order at 5. However, 90 days from the Commission's November 14 Order would be February 12, 2003. BellSouth's systems are not set up to commence changes to the calculation and reporting of performance results in the middle of a month, which would preclude implementation on February 12, 2003. Accordingly, BellSouth respectfully requests that the Commission clarify that the changes required by its November 14 Order will be effective March 1, 2003.

H. The Commission Should Clarify Certain Aspects Of Its November 14 Order As It Relates To The Change Control Process

The Commission's November 14 Order adopts a number of changes to the CCP, the vast majority of which can be readily incorporated into the CCP document. However, BellSouth respectfully requests that the Commission clarify certain aspects of its November 14 Order as it relates to changes to the Change Control Process.

First, the Commission should clarify the form to be used to provide future release capacity sizing information. This form, to which BellSouth and the CLECs have agreed, is titled "Reporting Pre-Release Estimated Capacity Forecasting/Used For Capacity Planning Only" and also is referred to as Revised Appendix I-A. However, several sections of the Commission's November 14 Order contain a reference to Appendix I-A, which has been superceded by Revised Appendix I-A. *See* November 14 Order at 9 (Item 11), 13 (Item 40a), 16 (Item 43), 17 (Item 46), & 17 (Item 48). The Commission should clarify its November 14 Order to substitute Revised Appendix I-A where references to Appendix I-A appear.

Second, the Commission should clarify the requirement that BellSouth provide information concerning "full release capacity." November 14 Order at 9 (Item 13). The capacity sizing information that BellSouth is obligated to provide concerning future releases relates to "estimated release capacity," which is the information set forth in Revised Appendix I-A. The Commission should clarify its November 14 Order to make clear that the release capacity information BellSouth must provide are only estimates.

Third, the Commission should clarify the requirement that BellSouth provide capacity information concerning "all future releases." November 14 Order at 9 (Item 14). BellSouth should not be required to provide capacity information for every release that may be

contemplated in the future, and it is unreasonable to expect that BellSouth could even do so. The Commission should clarify its November 14 Order accordingly.

Fourth, the Commission should clarify the time period for which estimated release capacity information must be provided. November 14 Order at 9 (Item 16) & 14 (Item 43). This time period should be for the upcoming twelve months, as stated in Item 16, and not for two years, as stated in Item 43. It is unreasonable to expect that BellSouth can provide reasonable estimates of release capacity beyond twelve months, and requiring that BellSouth to do would serve no useful purpose.

Finally, the Commission should clarify the point during the Change Control Process when "Candidate Change Requests" are assigned to future releases. November 14 Order at 10 (Items 19-20). The Commission's November 14 Order contemplates that "Candidate Change Requests" are assigned to future releases at Step 5 of the CCP, which is the meeting at which CLECs prioritize change requests. However, this meeting does not result in the "assignment of Candidate Change Requests to future releases." In fact, change requests cannot actually be assigned to future releases until after BellSouth has shared the CLECs' list of prioritized change requests with its IT department and developed a complete scope of the work involved in implementing each release. Accordingly, BellSouth requests that this requirement be eliminated from Step 5 or, alternatively, inserted as part of Step 8, which is when the proposed release packages and scheduled change requests are discussed with and agreed upon by the CLECs.

III. CONCLUSION

For the foregoing reasons, BellSouth asks the Commission to reconsider and clarify its November 14, 2002 Order accordingly.

Respectfully submitted, this 5th day of December, 2002.

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